

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation Against: )**  
)  
)  
)

**ROMEO ARCEGA ABAYA, JR., M.D. )**

**Case No. 800-2014-010557**

**Physician's and Surgeon's )**  
**Certificate No. A 129216 )**  
)

**Respondent )**  
**\_\_\_\_\_ )**

**DECISION AND ORDER**

**The attached Stipulated Surrender of License and Order is hereby  
adopted as the Decision and Order of the Medical Board of California,  
Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on March 8, 2018 .**

**IT IS SO ORDERED March 1, 2018 .**

**MEDICAL BOARD OF CALIFORNIA**

By: \_\_\_\_\_

**Kimberly Kirchmeyer  
Executive Director**

1 XAVIER BECERRA  
Attorney General of California  
2 MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
3 DEMOND L. PHILSON  
Deputy Attorney General  
4 State Bar No. 220220  
1300 I Street, Suite 125  
5 P.O. Box 944255  
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7 *Attorneys for Complainant*

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2014-010557

12 **ROMEO ARCEGA ABAYA, JR., M.D.**  
13 **1165 Burton Drive, Unit D**  
14 **Redding, CA 96003**

OAH No. 2017090350

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

15 **Physician's and Surgeon's Certificate No.**  
16 **No. A 129216**

Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
22 of California (Board). She brought this action solely in her official capacity and is represented in  
23 this matter by Xavier Becerra, Attorney General of the State of California, by Demond L. Philson,  
24 Deputy Attorney General.

25 2. Romeo Arcega Abaya, Jr., M.D. (Respondent) is represented in this proceeding by  
26 Amelia F. Burroughs, Esq., whose address is 730 Fifth Street, P.O. Drawer 1288, Eureka, CA  
27 95501.

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3. On or about March 24, 2014, the Board issued Physician's and Surgeon's Certificate No. A 129216 to Romeo Arcega Abaya, Jr., M.D. (Respondent). The Physician's and Surgeon's Certificate No. 129216 was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-010557 and will expire on April 30, 2019, unless renewed.

## JURISDICTION

4. Accusation No. 800-2014-010557 was filed before the (Board), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 19, 2017. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2014-010557 is attached as Exhibit A and incorporated by reference as if fully set forth herein.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-010557. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2014-010557, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

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9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate No. A 129216 without further process.

10. Respondent agrees that his Physician's and Surgeon's Certificate No. A 129216 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Order below.

11. Respondent further agrees that if he ever petitions for reinstatement of his Physician's and Surgeon's Certificate No. A 129216, or petitions to revoke probation or if an accusation is ever filed against him before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2014-010557 shall be deemed true, correct, and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving respondent in the State of California or elsewhere.

12. Respondent understands that by signing this stipulation he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. A 129216 without further notice to, or opportunity to be heard by, respondent.

## CONTINGENCY

13. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board “shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license.”

14. This Stipulated Surrender of License and Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Order after receiving it. By signing this stipulation, respondent fully understands and agrees that he may not withdraw his agreement or seek to

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1 rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board,  
2 considers and acts upon it.

3 15. The parties agree that this Stipulated Surrender of License and Order shall be null and  
4 void and not binding upon the parties unless approved and adopted by the Executive Director on  
5 behalf of the Board, except for this paragraph, which shall remain in full force and effect.  
6 Respondent fully understands and agrees that in deciding whether or not to approve and adopt this  
7 Stipulated Surrender of License and Order, the Executive Director and/or the Board may receive  
8 oral and written communications from its staff and/or the Attorney General's Office.  
9 Communications pursuant to this paragraph shall not disqualify the Executive Director, the  
10 Board, any member thereof, and/or any other person from future participation in this or any other  
11 matter affecting or involving respondent. In the event that the Executive Director on behalf of the  
12 Board does not, in her discretion, approve and adopt this Stipulated Surrender of License and  
13 Order, with the exception of this paragraph, it shall not become effective, shall be of no  
14 evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action  
15 by either party hereto. Respondent further agrees that should this Stipulated Surrender of License  
16 and Order be rejected for any reason by the Executive Director on behalf of the Board, respondent  
17 will assert no claim that the Executive Director, the Board, or any member thereof, was  
18 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of  
19 License and Order or of any matter or matters related hereto.

20 ADDITIONAL PROVISIONS

21 16. This Stipulated Surrender of License and Order is intended by the parties herein to be  
22 an integrated writing representing the complete, final and exclusive embodiment of the  
23 agreements of the parties in the above-entitled matter.

24 17. The parties agree that copies of this Stipulated Surrender of License and Order,  
25 including copies of the signatures of the parties, may be used in lieu of original documents and  
26 signatures and, further, that such copies shall have the same force and effect as originals.

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18. In consideration of the foregoing admissions and stipulations, the parties agree the Executive Director of the Medical Board may, without further notice to or opportunity to be heard by respondent, issue and enter the following Order on behalf of the Board:

**ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 129216, issued to Respondent Romeo Arcega Abaya, Jr., M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate No. A 129216 and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Medical Board of California.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2014-010557 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2014-010557 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully  
3 discussed it with my attorney, Amelia F. Burroughs. I understand the stipulation and the effect it  
4 will have on my Physician's and Surgeon's Certificate No. A 129216. I enter into this Stipulated  
5 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound  
6 by the Decision and Order of the Medical Board of California.

7  
8 DATED: 02/23/2018

*Romeo Abaya Jr.*  
9 ROMEO ARCEGA ABAYA, JR., M.D.  
10 Respondent

11 I have read and fully discussed with Respondent Romeo Arcega Abaya, Jr., M.D. the terms  
12 and conditions and other matters contained in this Stipulated Surrender of License and Order. I  
13 approve its form and content.

14 DATED: 02-23-18

*A.F.B.*  
15 AMELIA F. BURROUGHS  
16 Attorney for Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
19 for consideration by the Medical Board of California of the Department of Consumer Affairs.

20 Dated: 2/23/18

Respectfully submitted,

21 XAVIER BECERRA  
22 Attorney General of California  
23 MATTHEW M. DAVIS  
Supervising Deputy Attorney General

*Demond L. Philson*  
24  
25 DEMOND L. PHILSON  
26 Deputy Attorney General  
27 Attorneys for Complainant

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**Exhibit A**

**Accusation No. 800-2014-010557**



1 XAVIER BECERRA  
Attorney General of California  
2 MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
3 DEMOND L. PHILSON  
Deputy Attorney General  
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7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO July 19 2017  
BY: R. Voong ANALYST

10 BEFORE THE  
11 MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2014-010557

14 **Romeo Arcega Abaya, Jr., M.D.**  
1165 Burton Drive, Unit D  
15 Redding, CA 96003

**A C C U S A T I O N**

16 **Physician's and Surgeon's Certificate**  
17 **No. A 129216,**

Respondent.

19  
20 Complainant alleges:

21 **PARTIES**

- 22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
23 capacity as the Executive Director of the Medical Board of California.
- 24 2. On or about March 24, 2014, the Medical Board issued Physician's and Surgeon's  
25 Certificate No. A 129216 to Romeo Arcega Abaya, Jr., M.D. (Respondent). The Physician's and  
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on April 30, 2019, unless renewed.

28 ///

## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate.

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

1       “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
2 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
3 who is the subject of an investigation by the board.”

4       5.     Section 726 of the Code states:

5       “The commission of any act of sexual abuse, misconduct, or relations with a patient, client,  
6 or customer constitutes unprofessional conduct and grounds for disciplinary action for any person  
7 licensed under this division or under any initiative act referred to in this division.

8       “This section shall not apply to consensual sexual contact between a physician and surgeon  
9 and his or her spouse or person in an equivalent domestic relationship when that physician and  
10 surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse  
11 or person in an equivalent domestic relationship.”

12       6.     Section 2266 of the Code states: “The failure of a physician and surgeon to maintain  
13 adequate and accurate records relating to the provision of services to their patients constitutes  
14 unprofessional conduct.”

#### 15                                   **FIRST CAUSE FOR DISCIPLINE**

#### 16                                   **(Unprofessional Conduct/Gross Negligence)**

17       7.     Respondent is subject to disciplinary action under section 2234(b) of the Code in that  
18 he was grossly negligent in the care and treatment of patients J.J. and F.M. The circumstances are  
19 as follows:

#### 20       **Patient J.J.**

21       8.     On or about April 8, 2015, Respondent began treating patient J.J. at Lassen Medical  
22 Group Cottonwood Clinic for chronic low back pain and bilateral hip pain. Patient J.J. had a  
23 history of alcohol and marijuana addiction. He was treated by Respondent through December of  
24 2015. Respondent treated patient J.J. for bilateral hip pain with cortisone injections<sup>1</sup> and treated

25  
26       <sup>1</sup> Cortisone injections can be used to treat inflammation of small areas of the body, such as  
27 inflammation of a specific joint or tendon. They can also treat inflammation that is widespread  
28 throughout the body, such as with allergic reactions, asthma, and rheumatoid arthritis, which  
affects many joints.

1 his lower back pain with OxyContin.<sup>2</sup> Over the next several months Respondent's prescription of  
2 OxyContin increased and he began including Soma,<sup>3</sup> Klonopin,<sup>4</sup> Ambien,<sup>5</sup> and Fentanyl.<sup>6</sup>

3 9. On or about April 8, 2015, Respondent referred patient J.J. for physical therapy and  
4 later prescribed OxyContin. Respondent provided patient J.J. with OxyContin in order to treat the  
5 radiculopathy to be taken just before physical therapy. Subsequent records indicate that patient  
6 J.J. was being given OxyContin for osteoarthritis of the spine. Later, Tramadol<sup>7</sup> was also added in  
7 addition to the ibuprofen that the patient was already taking. Later during the course of treatment  
8 patient J.J. was treated with Fentanyl. There was no documentation of the effect on pain and  
9 function with the use of opiate medications in Respondent's notes. Despite the lack of  
10 documentation of the effect on pain and function, Respondent continued to prescribe opiates to  
11 patient J.J.

12 10. A history and physical examination was documented on April 8, 2015. There was no  
13 indication that the prior record of treatment with Vicoprofen<sup>8</sup> by Dr. N. was reviewed by  
14 Respondent at that time or any time thereafter. The history of alcohol abuse and marijuana use  
15 indicated that patient J.J. was at high risk for substance abuse. Respondent failed to review the  
16 prior medical records despite patient J.J. being at risk for substance abuse.

17  
18 <sup>2</sup> Oxycodone, brand name OxyContin, is a Schedule II controlled substance pursuant to  
19 Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to  
Business and Professions Code section 4022.

20 <sup>3</sup> Soma is the brand name for Carisoprodol, a Schedule IV controlled substance pursuant  
21 to 21 C.F.R. § 1308, and a dangerous drug pursuant to Business and Professions Code section  
4022.

22 <sup>4</sup> Clonazepam, brand name Klonopin, is a Schedule IV controlled substance pursuant to  
Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to  
Business and Professions Code section 4022. Klonopin (clonazepam) is a benzodiazepine.

23 <sup>5</sup> Zolpidem, brand name Ambien, is a Schedule IV controlled substance pursuant to Health  
and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and  
Professions Code section 4022.

24 <sup>6</sup> Fentanyl, brand name Duragesic, is a Schedule II controlled substance pursuant to Health  
and Safety Code section 11055, subdivision (c), and a dangerous drug pursuant to Business and  
Professions Code section 4022.

25 <sup>7</sup> Tramadol is used to treat moderate to severe pain.

26 <sup>8</sup> Vicoprofen contains a combination of hydrocodone and ibuprofen. Hydrocodone is an  
27 opioid pain medication. An opioid is sometimes called a narcotic. Ibuprofen is a nonsteroidal anti  
inflammatory drug (NSAID). This medicine works by reducing substances in the body that cause  
28 pain, fever, and inflammation.

1           11. On or around April 10, 2015, patient J.J. was given an aspartate aminotransferase  
2 (AST) test for his liver. Patient J.J.'s results showed an AST of 36 with normal values ranging  
3 from 12 to 29. There was no indication of any follow-up regarding this elevated liver function test  
4 despite patient J.J.'s known history of alcoholism which often causes liver damage.

5           12. On or around June 10, 2015, during one of patient J.J.'s examinations, Respondent  
6 conducted a genital examination for perceived erectile dysfunction. Respondent conducted  
7 repetitive unnecessary genital examinations. Respondent conducted the genital exams even  
8 though patient J.J. did not present with any indication of erectile dysfunction or testicular  
9 problems. The genital examination included a baseline measurement of patient J.J.'s testicles with  
10 a measuring tape.

11           13. Respondent failed to keep timely accurate and legible medical records. The medical  
12 record of April 10, 2015, for patient J.J.'s treatment was signed at approximately midnight on  
13 June 14, 2015. The record of June 10, 2015, for patient J.J.'s treatment was signed July 27, 2015.  
14 Respondent's failure to keep timely, accurate, and legible medical records, are departures from the  
15 standard of care regarding record-keeping.

16           14. During the course of his treatment Respondent became socially familiar with patient  
17 J.J. and visited him at his home after he had back surgery on or around September 25, 2015.  
18 Respondent visited patient J.J. at his home and injected him with Naloxone<sup>9</sup> for complications  
19 arising from opioid overdose.

20           15. During the course of his treatment, Respondent was aware that patient J.J. was  
21 working at a recovery house for people with addictions. Patient J.J. and his girlfriend met  
22 Respondent at the recovery house. During the summer of 2015, Patient J.J. discovered that  
23 Respondent was a Christian like him. Respondent and patient J.J. started going to church together.

24           16. On one occasion, Respondent went to patient J.J.'s home and gave him a massage on  
25 his upper back. At one of the Respondent's home visits he suggested that patient J.J. come to  
26 Respondent's house for a full body massage and spend the night. On another occasion,

27           <sup>9</sup> Naloxone blocks or reverses the effects of opioid medication, including extreme  
28 drowsiness, slowed breathing, or loss of consciousness.

1 Respondent went to dinner at patient J.J.'s house. And on another occasion, Respondent went  
2 with patient J.J. to a coffee shop.

3 17. Respondent committed gross negligence and/or general unprofessional conduct in his  
4 care and treatment of patient J.J., which included, but was not limited to, the following:

5 (a) Paragraphs 8 through 16, above, are hereby incorporated by reference as if fully  
6 set forth herein;

7 (b) Respondent's management of patient J.J.'s chronic low back pain condition  
8 with opiate medications represents a departure from the standard of care;

9 (c) Respondent failed to appropriately treat erectile dysfunction, in that he failed to  
10 conduct a physical examination with particular attention given to the cardiovascular, neurological  
11 and genitourinary systems, as these systems are directly involved with erectile function.

12 Respondent's repetitive genital examinations were not required or necessary and departed from  
13 the standard of care;

14 (d) Respondent failed to preserve the boundaries of the physician-patient  
15 relationship. Respondent had inappropriate contact with the patient. Respondent's actions are a  
16 departure from the standard of care in the treatment of a patient who was under his care and being  
17 treated with strong opioid medication; and

18 (e) Respondent failed to treat an opioid overdose in an emergency room where  
19 airway protection and appropriate monitoring is available. Respondent's treatment of a possible  
20 opioid overdose outside the emergency room at a patient's home is a departure from the standard  
21 of care. Respondent's lack of documentation of that treatment is also a departure from the  
22 standard of care regarding record-keeping.

23 **Patient F.M.**

24 18. On or about December 3, 2014, Respondent treated patient F.M. at Lassen Medical  
25 Group Cottonwood Clinic for left testicular swelling. Patient F.M. had a history of renal cancer  
26 and previously had his left kidney removed. Respondent instructed patient F.M. to lower his pants  
27 and started touching his genitals trying to sexually arouse him. Respondent commented  
28 inappropriately on patient F.M.'s penis size by saying, "You are big" and telling him he was a

1 "goat." Respondent told patient F.M. to lie down on the examination table and continued touching  
2 his testicles and penis for approximately seven to eight minutes resulting in an erection.  
3 Respondent conducted a flashlight test on patient F.M.'s enlarged testicle to see if there was fluid  
4 in his scrotum. There was no other person inside the exam room besides patient F.M. and  
5 Respondent. Respondent put the flashlight underneath patient F.M.'s left testicle. Respondent  
6 touched patient F.M.'s testicles and penis for approximately two minutes to the extent of him  
7 getting an erection. Respondent also used a tape measure to "measure" patient F.M.'s testicles.

8 19. On or about December 3, 2014, Respondent ordered an ultrasound of patient F.M.'s  
9 scrotum. There is no record of his following up on this order contained within the medical record.  
10 On or around January 20, 2015, patient F.M. was seen by Dr. E.Z., a nephrologist, who ordered a  
11 pelvic and testicular ultrasound. The lack of documentation of follow up for the ultrasound  
12 ordered by Respondent is a departure from the standard of care.

13 20. Respondent committed gross negligence and/or general unprofessional conduct in his  
14 care and treatment of patient F.M., which included, but was not limited to, the following:

15 (a) Paragraphs 18 through 19, above, are hereby incorporated by reference as if  
16 fully set forth herein;

17 (b) Respondent inappropriately engaged in the prolonged stimulation of the  
18 patient's genitals causing an erection; and

19 (c) Respondent inappropriately used a tape measure to "measure" the patient's  
20 testicles;

## 21 **SECOND CAUSE FOR DISCIPLINE**

### 22 **(Unprofessional Conduct/Repeated Negligent Acts)**

23 21. Respondent is subject to disciplinary action under section 2234(c) of the Code in that  
24 he committed acts of repeated negligence in the care and treatment of patients J.J. and F.M. The  
25 circumstances are as follows:

#### 26 **Patient J.J.**

27 22. Respondent committed acts of repeated negligence in his care and treatment of patient  
28 J.J., which included, but was not limited to, the following:

1 (a) Paragraphs 8 through 17, above, are hereby incorporated by reference as if fully  
2 set forth herein;

3 (b) Respondent failed to perform an adequate and appropriate history and physical  
4 exam prior to prescribing and/or refilling prescriptions for controlled substances. Respondent's  
5 failure to perform an adequate and appropriate history and physical exam is a departure for the  
6 standard of care;

7 (c) Respondent's failure to develop adequate treatment plans, discuss treatment  
8 goals, conduct functional assessments or conduct ongoing monitoring while prescribing opioids  
9 and controlled substances are departures from the standard of care;

10 (d) Respondent failed to keep timely accurate and legible medical records.  
11 Respondent's failure to keep timely accurate and legible medical records are departures from the  
12 standard of care regarding record-keeping; and

13 (e) Respondent failed to follow up on abnormal laboratory results. Respondent's  
14 failure to document the abnormal laboratory result in his note and have the patient retested is a  
15 simple departure from the standard of care.

16 **Patient F.M.**

17 23. Respondent committed acts of repeated negligence in his care and treatment of patient  
18 F.M., which included, but was not limited to, the following:

19 (a) Paragraphs 18 through 20, above, are hereby incorporated by reference as if  
20 fully set forth herein;

21 (b) Respondent departed from the standard of care by commenting on the size of  
22 the patient's penis; and

23 (c) Respondent departed from the standard of care by failing to document a follow-  
24 up after he ordered an ultrasound.

25 24. Respondent's care and treatment of patients J.J. and F.M., as described above,  
26 constitutes repeated acts of negligence in the practice of medicine and/or unprofessional conduct  
27 in violation of section 2234(c) of the Code and thereby provides cause for discipline to  
28 Respondent's license.



1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct/Sexual Misconduct)**

3 25. Respondent is subject to disciplinary action under sections 2234 and 726 of the Code  
4 in that he committed unprofessional conduct and/or sexual misconduct in the care and treatment  
5 of patients J.J. and F.M. The circumstances are as follows:

6 26. Paragraphs 8 through 20 above, are repeated here as if fully set forth.

7 27. Respondent's care and treatment of patients J.J. and F.M., as described above,  
8 constitutes unprofessional conduct and/or sexual misconduct in the practice of medicine and  
9 thereby provides cause to discipline Respondent's license.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Inadequate and Inaccurate Record Keeping)**

12 28. Respondent is subject to disciplinary action under section 2266 of the Code in that he  
13 failed to maintain adequate and accurate medical records in the care and treatment of patient J.J.  
14 The circumstances are as follows:

15 29. Paragraphs 8 through 16 above, are repeated here as if fully set forth.

16 30. Respondent's inadequate and inaccurate medical record keeping in his care and  
17 treatment of patient J.J., as described above, constitutes a violation of section 2266 of the Code  
18 and thereby provides cause for discipline to Respondent's license.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
21 and that following the hearing, the Medical Board of California issue a decision:

22 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 129216, issued  
23 to Romeo Arcega Abaya, Jr., M.D.;

24 2. Revoking, suspending or denying approval of Romeo Arcega Abaya, Jr., M.D.'s  
25 authority to supervise physician assistants and advanced practice nurses;

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1           3.     Ordering Romeo Arcega Abaya, Jr., M.D., if placed on probation, to pay the Board  
2 the costs of probation monitoring; and

3           4.     Taking such other and further action as deemed necessary and proper.  
4

5 DATED: July 19, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
State of California  
*Complainant*

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